



COUNCILMEMBER CARL DEMaIO

FIFTH DISTRICT

CITY OF SAN DIEGO

DATE: August 2, 2010

TO: City Attorney Jan Goldsmith

CC: Honorable Mayor and City Council

FROM: Councilmember Carl DeMaio *Carl DeMaio*

RE: Potential Approval of New City Hall Project Without a Public Vote?

In light of the Mayor vetoing legislation that would allow taxpayers the final say on the approval of the \$300 million New City Hall Project, my office has several questions on what avenues project proponents may take to push this project forward.

The first key question relates to the City Council's obligation to consider the veto-override in a timely manner in order to meet its Charter duties. Specifically, Section 285 of the City Charter plainly states: "The Council shall reconsider any resolution or ordinance vetoed by the Mayor."

In other instances your office has opined that the City must take into account issues of timing with respect to fulfillment of its Charter duties.

- 1. In light of the City's August 6, 2010 deadline to get ballot materials to the County Registrar of Voters, does the City Council have the obligation to meet its duty to "reconsider" the ordinance at the only remaining scheduled City Council meeting – which is slated for August 4, 2010 at 10am?**

The second set of questions relates to the concern that the New City Hall Project may be approved through simple legislative action by the City Council without a public vote.

As you may recall, on February 24, 2010 City Council Members Donna Frye, Kevin Faulconer, Sherri Lightner and I made the public and firm commitment that we would not approve the New City Hall Project without a public vote.



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The commitment of our four votes meant no project could gain the required majority vote approval without a public vote mechanism. Therefore the City Council ultimately agreed as a whole to place the project on the November ballot.

Unfortunately, it is entirely possible that those commitments could change – either before or after the new City Council is sworn into office on December 6, 2010.

- 1. Can the Mayor and City Council unilaterally approve this project without a public vote?**
- 2. Assuming the Mayor does not veto a unilateral approval of the New City Hall Project, how many votes would it take on the City Council to proceed with the project?**
- 3. Even if approval of the project requires 5 votes, how many votes would be required for approval of the 30-year terms of municipal bond financing require?**

I would appreciate your timely response to these questions. However, given the time sensitivity on this issue, I would appreciate an immediate response to the first question be provided to Council President Ben Hueso and copied to the Mayor and City Council as soon as possible.

Thank you for your assistance on this matter.